

## ARTICLE 150

### Codes Board of Appeals

- 150.01 Purpose; Establishment
- 150.02 Board Membership
- 150.03 Procedure for Appeal
- 150.04 Decision of Board
- 150.05 Judicial Remedies

### CROSS REFERENCES

Adoption of Codes - See FIRE PREV. Art. 1501  
Appeals - See FIRE PREV. Art. 1503.06  
Penalty - See FIRE PREV. Art. 1503.99  
BOCA Building Code - See BLDG. Art. 1701  
    Additions & Modifications - See Art. 1701.02  
    Means of Appeal - See BOCA 124.1  
Certificates of Use & Occupancy - See BLDG. Art. 1702  
National Electrical Codes - See BLDG. Art. 1703  
BOCA Plumbing Code - See BLDG. Art. 1705  
BOCA Existing Structures Code - See BLDG. Art. 1731  
Rooming Houses - See BLDG. Art. 1733  
    Hearing - See Art. 1733.05

#### 150.01 PURPOSE; ESTABLISHMENT

There is hereby created a Board of Appeals whose function it shall be to hear and decide appeals from:

(a) Decisions made by the Fire Department enforcing the provisions of the Codes adopted pursuant to Article 1501 of the Codified Ordinances of the City of Bethlehem; and –

(b) Decisions made by a building official refusing to grant a modification of the provisions of the building code, electrical code, mechanical code, plumbing code, or housing code covering the manner of construction or materials to be used in the erection, installation, alterations, or repairs or violations existing in a building or structure, pursuant to Articles 1701, 1702, 1703, 1705, 1706, 1731 and 1733 of the Codified Ordinances of the City of Bethlehem; and -

(c) Decisions made by a City official and/or City department where by City ordinance, a right of appeal has been created from such decisions to the Board of Appeals.

(Ord. 4156 – Passed 11/6/2002)

#### 150.02 BOARD MEMBERSHIP

(a) The Board of Appeals shall consist of nine (9) members appointed by the Mayor, with the advice and consent of the Council of the City of Bethlehem. Each member is to be appointed for a period of three (3) years or until his successor has been appointed. Members of the Board shall receive no compensation for the services rendered to the Board.

(b) Each member shall be a licensed professional engineer, licensed professional architect, licensed plumbing contractor, building contractor, person trained in or familiar with fire and life safety codes or electrical contractor with at least ten (10) years experience, five (5) years of which he shall have been in responsible charge of work; and at no time shall there be more that two (2) members of the Board selected from the same profession or business.

(c) Vacancies shall be filled for the unexpired term of any member whose place becomes vacant, and the Mayor may remove any member for cause after public hearing.

(Ord. 4156 – Passed 11/6/2002)

#### 150.03 PROCEDURE FOR APPEAL

(a) When any person wishes to appeal a decision he shall file an appeal with the Secretary to the Board or with the Office of the City Clerk, who shall immediately forward such an appeal to the Secretary to the Board, within ten days of the official's decision. The appeal shall contain a concise statement of the relevant facts, the decision appealed from, and the basis for the appeal.

(b) An application for appeal may be made when it is claimed that: the true intent of the Codes or rules legally adopted thereunder has been incorrectly interpreted, or the provisions of the Code do not fully apply, or

an equally good or better method can be used, or that the decision under appeal was made in an arbitrary and capricious manner.

(c) Hearings shall be open to the public. The Board shall elect a Chairperson and a Secretary and prescribe such rules as may be necessary as to place and conduct of hearings. The Board may in such rules make provision for a filing fee for appeals in the amount of \$100.00, which shall be paid to the City Treasurer.

(d) The Board shall affirm, modify or reverse the decision under appeal by a concurring vote of five (5) members. Failure to secure (5) concurring votes shall be deemed a confirmation of the decision under appeal. Attendance by five (5) members of the Board shall be required to constitute a quorum for a meeting.

(e) The Secretary shall forthwith transmit copies of the appeal to the Fire Commissioner or Building Code Enforcement Officer or other applicable City official and shall set a date for the hearing of the appeal. The hearing shall be held within 30 days after receipt by the Secretary of the appeal. Notice of the date of the hearing shall be given to the parties involved and shall not be scheduled without concurrence of the fire or building department or other applicable City department as to the particular date of the hearing.

(Ord. 4156 – Passed 11/6/2002)

#### 150.04 DECISION OF BOARD

The Board shall render its decision at a public meeting after the conclusion of the hearing and a written decision thereof is to be issued within seven business days thereafter. The decision shall state the findings of the Board with respect to the material facts and shall reference the provisions of the Codes or laws of the Commonwealth of Pennsylvania, if any are deemed applicable, upon which the decision is based. In reaching its decision, the Board shall consider the expressed intent of any applicable Codes. (Ord. 4156 – Passed 11/6/2002)

#### 150.05 JUDICIAL REMEDIES

This Article shall not be construed to limit or deny any judicial remedies to which a party may be entitled by law or equity, but any

aggrieved party having an appeal under this Article must first avail himself or herself of the appeal. (Ord. 3281. Passed 8/1/89.)